

STATUS OF CLAIMS

Claims 3, 5-10, 14-25, 27, 29-32 and 35-44 are pending.

Claims 3 and 25 stand objected to.¹

Claims 3, 5-10, 14-25, 27, 29-32 and 35-44 stand rejected.

Claims 9 and 31 have been amended without prejudice herein.

REMARKS

Reconsideration of the subject application is requested.

Claim Objections

Claims 3 and 25 stand objected to as purportedly being unclear for reciting “rehabilitate” in connection with sustained losses. Applicant traverses these objections. The term “rehabilitate” is, and was at the time of the invention, used by those possessing an ordinary skill in the pertinent arts in connection with restoring insured losses. To “rehabilitate” a sustained loss is to satisfy or recover from a loss, such as by restoring or reconstructing an item to good operation. This is consistent with the use of “rehabilitate” in the application as originally filed, such as in paragraph [0015] (“*From a consumer perspective, the system affords the ability to “reconstruct” or rehabilitate its claims and process claims with the least involvement of claims personnel. The process of reconstruction includes a consumer’s ability to create and maintain a personal claim file online and look into it from time to time to view how the resolution of the claim is progressing.*”) and in paragraph [0017] (“*The invention also contemplates an online consumer to business exchange, wherein the site operates as a multi-party portal where vendors of goods and services will advertise and offer the types of products that an individual or business requires to rehabilitate a loss.*”). Applicant also notes the term “rehabilitate” was used throughout the claims as originally filed in a consistent manner.

Accordingly, Applicant requests reconsideration and removal of the objections to Claims 3 and 25.

¹ Applicant notes the Office action Summary omits to identify Claims 3 and 25 as being objected to.

Rejections Pursuant to 35 U.S.C. 112, Second Paragraph

Claims 9 and 31 stand rejected pursuant to 35 U.S.C. 112, second paragraph, as purportedly being indefinite as reciting “substantially”. Applicant notes there is no prohibition in the MPEP or otherwise against use of the term “substantially”. Rather, the recitation of “substantially” must be considered in light of the remainder of the claim and that which the application teaches.

Nonetheless, for non-limiting purposes of expediting prosecution of the subject application, and without prejudice, Applicant has amended Claims 9 and 31 to omit the term “substantially”.

Claims 3 and 25 stand rejected pursuant to 35 U.S.C. 112, second paragraph, as purportedly not being clear. More particularly, the Office action asserts it is not clear what the end result of the analyzing is, or how the analyzing step is related to claim rehabilitation. Applicant traverses these rejections.

Claim 3 clearly and unambiguously recites, “a claim data analyzing component analyzing the inputted insurance claims.” Claim 3 also clearly and unambiguously recites that the aggregated services are automatically provided to the claimants to rehabilitate the sustained losses in accordance with said analyzing. Accordingly, it is clear that in the end, aggregated services are offered in accordance with the analyzing, and hence, as best Applicant understands the asserted rejections, that an end result of the analyzing is the offering of services, and that the recited claim rehabilitation is thus dependent on the recited analyzing.

Claim 25 recites analogous limitations.

Accordingly, Applicant respectfully requests reconsideration and removal of the rejections pursuant to 35 U.S.C. 112, second paragraph.

Rejections Pursuant to 35 U.S.C. 103(a)

Claims 3, 5-10 and 14-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi (U.S. Patent 5,950,169), in view of (2) Middlemen (May 31, 1999 non-patent literature), further in view of (3) Panko (May 1, 2001 non-patent literature), further in view of (4) Automating (May 1994 non-patent literature).

Claims 25, 27, 29-32 and 35-36 apparently also stand rejected as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating.²

Claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, and further in view of (5) progressive.com (March 1, 2000 non-patent literature).

Claim 17 stands rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, and further in view of (5) King (U.S. Patent 5,704,045).

Claims 18-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, further in view of (5) King (U.S. Patent 5,704,045), and yet further in view of (6) Ryan (U.S. Patent 5,655,085).

Claims 20-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, further in view of (5) King (U.S. Patent 5,704,045), further in view of (6) Ryan (U.S. Patent 5,655,085), and yet further in view of (7) Ertel (U.S. Patent 5,307,262).

Claims 22-23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, and further in view of (5) Burks (U.S. Patent 6,453,297).

Claim 24 stands rejected under 35 U.S.C. 103(a) as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, further in view of (5) Burks, and further in view of (6) Ertel.

Claim 37 stands rejected as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, and further in view of (5) King.

² See, Office action, page 5-6, sections (K) and (P)-(Y), but see page 3, section 6. Should a notice of allowance not be forthcoming, Applicant requests clarification as to the actual grounds of rejection asserted.

Claims 38-39 stand rejected as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, further in view of (5) King, and yet further in view of (6) Ryan.

Claims 40-44 stand rejected as being unpatentable over (1) Borghesi, in view of (2) Middlemen, further in view of (3) Panko, further in view of (4) Automating, further in view of (5) King, yet further in view of (6) Ryan, and yet further in view of (7) Ertel.

Applicant traverses these rejections, which each piecemeal rely upon select portions of between four and seven distinct references, for at least the following reasons.

1. *Panko is not “prior art”*

Each and every asserted rejection cites, and relies in part upon, Panko. The subject application claims priority of United States Patent Application Serial No. 60/207,246, filed May 26, 2000 (hereinafter referred to as the “priority application”). This priority claim is properly reflected in the declaration as originally filed, and on the Official Filing Receipt received from the United States Patent and Trademark Office. Applicant has amended the subject application herein to explicitly recite the priority claim and refer to the priority application.

Panko purports to have been published May 1, 2001, more than 11 months after the priority application was filed. Accordingly, Applicant requests reconsideration and removal of each of the asserted rejections – at least by virtue that each asserted rejection cites and relies in part on the purported teachings of Panko, and Panko fails to qualify as prior art for purposes of the pending claims.

2. *The cited art, when properly considered as a whole, fails to teach or suggest the recited invention of any of the pending claims.*

Notwithstanding that the foregoing represents sufficient grounds that necessarily require removal of all the Office action asserted rejections, Applicant further submits the following grounds justifying reconsideration and removal of the Office action asserted rejections.

Independent Claim 3 recites, *inter alia*, “[a] computer system for enabling claimants to self-service insurance claims for sustained losses, the system comprising: a site generating component for generating a site on a global computer network allowing claimants to directly

input the insurance claims.” (emphasis added). Such a system is disclosed throughout the subject application. The disclosed process is an "open-system" which permits consumers to process their own claims and utilize the ancillary services and commodities offered. The invention permits the claim process to proceed without an agent, broker or an insurance company.

As discussed in Applicant’s prior response, Borghesi presents a comprehensive system and method for processing insurance claims “for use by insurance companies as well as appraisers, repair shops, salvage yards and other support industries.” *Col. 2, ll. 33-41.* Accordingly, Borghesi presents exactly that type of prior art system having the shortcomings and deficiencies that the present invention addresses by enabling insurance claimants to self-service insurance claims.

In an effort to remedy this admitted shortcoming, the Office action seeks to modify the Borghesi system to enable clients to self-service insurance claims. However, such a modification entirely eviscerates the problem Borghesi seeks to mitigate, that an insurance claim adjuster must spend time keeping track of, and running, separate programs that may overlap and lead to redundant data entry tasks for insurance claim work flow (*see, col. 2, ll. 3-9*). Accordingly, the need for the Borghesi system is entirely eradicated.

In other words, one possessing an ordinary skill in the pertinent art at the time of the invention would not have turned to the Borghesi system, where the problem solved by the Borghesi system (agents processing claims) is not present in the first place. Accordingly, a proper motivation to modify the teachings of Borghesi to change its principle of operation is lacking.

Further, the Office action cites and relies in part upon Middlemen as supporting the asserted Borghesi modification. This is without merit. Middlemen discusses removing middlemen in the course of buying and selling insurance – not servicing claims. It is entirely silent regarding servicing claims, and even teaches that eliminating middlemen in certain insurance purchase transactions is not appropriate. Further, whether or not it would be obvious to allow consumers to purchase insurance without intermediaries to reduce costs and/or improve service fails to provide any motivation or teaching regarding servicing claims relating to sold insurance instruments. Accordingly, Middlemen fails to remedy the admitted deficiency of Borghesi, at least with regard to claimants’ self servicing insurance claims.

To the extent, the Office action relies upon Panko to further support the asserted rejections, as discussed above, this reliance is misplaced, as Panko does not qualify as prior art for purposes of the pending claims.

The Office action asserted rejections do not rely on Automating in these regards.

Accordingly, Applicant requests reconsideration and removal of the asserted rejection of Claim 3, at least by virtue that the cited prior art fails to teach or suggest at least “[a] computer system for enabling claimants to self-service insurance claims for sustained losses, the system comprising: a site generating component for generating a site on a global computer network allowing claimants to directly input the insurance claims.” (emphasis added).

Applicant also requests reconsideration and removal of the rejections of Claims 5-10 and 14-24, at least by virtue of these claims’ ultimate dependency upon a patentably distinct base Claim 3.

Turning now to Claim 25, it analogously recites, *inter alia*, “[a] method for enabling claimants to self-service insurance claims for sustained losses, the method comprising the steps of: generating a site on a global computer network allowing claimants to directly input the insurance claims.” (emphasis added). Accordingly, Applicant respectfully requests reconsideration and removal of the rejection of Claim 25 for at least the foregoing reasons. Applicant also requests reconsideration and removal of the rejections of Claims 27, 29-32 and 35-44 as well, at least by virtue of these claims’ ultimate dependency upon a patentably distinct base Claim 25.

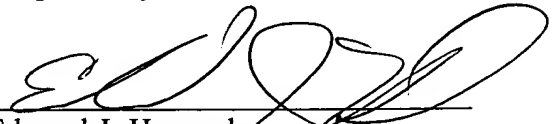
CONCLUSION

Applicant believes he has addressed all outstanding grounds raised in the outstanding Office action, and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,

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